IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 19TH MARCH 2007 / 28TH PHALGUNA 1928

OP.No. 26343 of 2002(J)

PETITIONER:
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1. M.I. AMEENA, CHAIR PERSON,
VILLAGE (DWEEP) PANCHAYATH, AGATTI UNION TERRITORY OF LAKSHADWEEP.

2. KITTANODE ABOOBACKER, MEMBER,
VILLAGE (DWEEP) PANCHAYATH, AGATTI,
UNION TERRITORY OF LAKSHADWEEP.

3. CHERIYAKOYA, MEMBER, VILLAGE (DWEEP)
PANCHAYATH, AGATTI, UNION TERROTORY OF
LAKSHADWEEP.

4. A.P. SHERAFUDIN, MEMBER
VILLAGE (DWEEP) PANCHAYATH, AGATTI,
UNION TERRITORY OF LAKSHADWEEP.

5. A. NAFEESABI, MEMBER,
DISTRICT (DWEEP) PANCHAYATH, KAVARATTI,
UNION TERRITORY OF LAKSHADWEEP.

BY ADV. SRI.N.N.SUGUNAPALAN

RESPONDENTS:
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1. THE EXECUTIVE OFFICER, VILLAGE (DWEEP)
PANCHAYATH, AGATTI, UNION TERRITORY OF
LAKSHADWEEP.

2. THE CHIEF EXECUTIVE OFFICER,
DISTRICT (DWEEP) PANCHAYATH,
KAVARATTI, UNION TERRITORY OF LAKSHADWEEP.

3. THE ADMINISTRATOR,
UNION TERRITORY OF LAKSHADWEEP, KASVARATTI.

4. GOVERNMENT OF INDIA,
MINISTRY OF HOME AFFAIRS, NEW DELHI.

R1 TO 3 BY ADV. SRI.P.R.RAMACHANDRA MENON
R4 BY SRI.MOHAN IDICULLA ABRAHAM, ADDL.CGSC

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 19/03/2007, ALONG WITH OP NO. 27047 OF 2002, THE COURT ON 19/03/2007 DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.44743/2002 IN O.P. NO.26343/2002

DISMISSED:

19.3.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE REGULATION 55 ISSUED BY GOVT. OF INDIA.

P2: TRUE COPY OF PROCEEDINGS OF THE MINISTRY OF HOME AFFAIRS DT.10.5.97.

P3: TRUE COPY OF PROCEEDINGS PASSED BY ADMINISTRATOR, U.T. LAKSHADWEEP DT.29.7.98.

P4: TRUE COPY OF PROCEEDINGS DT.17.8.98.

P5: TRUE COPY OF PROCEEDINGS DT.9.4.2001 ISSUED BY GOVT. OF INDIA.

P6: TRUE OCPY OF PROCEEDIGNS OF THE EXECUTIVE OFFICER, PANCHAYAT DT.9.7.2001.

P7: TRUE COPY OF PROCEEDINGS ISSUED BY EXECUTIVE OFFICER, PANCHAYATH, U.T. OF LAKSHADWEEP.

P8: TRUE COPY OF OBJECTION PREFERRED BY PETITIONER BEFORE THE CHIEF EXECUTIVE OFFICER.

RESPONDENT'S EXHIBITS:

R1(a): TRUE COPY OF THE AUDIT REPORT OF THE ACCOUNTANT GENERAL, KERALA PERTAINING TO THE ACCOUNTS OF THE VILLAGE (DWEEP) PANCHAYATH, AGATHI, U.T. OF LAKSHADWEEP.

R1(b): TRUE COPY OF CONSEQUENTIAL ORDER DT.19.6.01 ISSUED BY THE DIRECTOR OF PANCHAYATHS, U.T. OF LAKSHADWEEP, KAVARATTI.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR,J.

O.P. NO. 26343 & 27047 OF 2002

Dated this the 19th day of March, 2007

JUDGMENT

Heard counsel for the petitioners and standing counsel for the Lakshadweep administration. Petitioners were President, Vice-President and Members of the Grama Panchayat in Lakshadweep. Since Central Government had not fixed the allowances payable to the elected representatives in the Panchayat the Lakshadweep Administration fixed certain rates on provisional basis, subject to approval by Central Government. The arrangement was to continue until Government fixes rates and as and when Central Government fixes the rate, petitioners are entitled to differential payment or if excess was paid, petitioners are bound to repay the same. It so happened that the rate fixed by the Government is less than the amount given by the Lakshadweep Administration. In the circumstances, excess drawn by the petitioners were sought to be recovered, against which these O.Ps. are filed.

2. Even though counsel for the petitioners contended that the

amount fixed by the Administrator was not provisional but was on regular basis, I am unable to accept the same because Administrator cannot do what he is not authorised by law. The order of the Administrator fixing various amounts on provisional basis was only to help the petitioners to draw the allowance before rates are finally approved by the Central Government. In the circumstances, O.Ps. are devoid of any merit and are dismissed. However, petitioners are given 10 equal monthly instalments to clear the arrears without any interest, first of which will be paid on or before 15th May, 2007 and the balance on or before 15th of nine succeeding months. If default in payment of any instalment is committed by the petitioners then the instalment facility granted herein will stand cancelled and respondents will be free to proceed for recovery of the entire arrears and in that event arrears will be recovered with interest.

(C.N.RAMACHANDRAN NAIR)
Judge